

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DELTON PHILLIP FORRESTER,

Defendant.

Case No. 23-CR-303-JFH

OPINION AND ORDER

Before the Court is a motion for pretrial determination of Indian country land status (“Motion”) filed by the United States of America (“Government”). Dkt. No. 14. The Government seeks a determination that 34 S. 193rd East Ave., Tulsa, Oklahoma, 74108 is within the boundaries of the Muscogee (Creek) Nation. *Id.* at 1. The Government represents that defense counsel does not object to the Motion. *Id.*

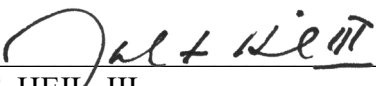
A “district court can find, as a matter of law, a geographic area or particular location is Indian Country, and then instruct the jury to determine factually whether the offense occurred there.” *United States v. Roberts*, 185 F.3d 1125, 1139-40 (10th Cir. 1999). The party seeking to invoke the jurisdiction of a federal court must demonstrate by a preponderance of the evidence that the case is within the Court's jurisdiction. *United States v. Bustillos*, 31 F.3d 931, 933 (10th Cir. 1994).

Here the Government submits for the Court’s review a map of the Muscogee (Creek) Nation, showing that 34 S. 193rd East Ave., Tulsa, Oklahoma, 74108 is within the Nation’s boundaries. Muscogee (Creek) Nation Boundary Map (last accessed January 30, 2024), <https://www.arcgis.com/home/webmap/viewer.html?webmap=e02bccd1bc294253a2e94567696c55fe&extent=>. The Court finds this sufficient to demonstrate by a preponderance of the evidence

that the location of the charged events is within Indian country. A jury, however, will determine the factual question of whether anything of a criminal nature occurred at the 34 S. 193rd East Ave., Tulsa, Oklahoma, 74108 address.

IT IS THEREFORE ORDERED that the motion for pretrial determination of Indian country land status filed by the United States of America at Dkt. No. 14 is GRANTED.

Dated this 31st day of January 2024.



JOHN F. HEIL, III
UNITED STATES DISTRICT JUDGE